

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

DELORES J. PUGSLEY,

Plaintiff,

vs.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant

Civil No. CV-05-0136-CI

ORDER

Based upon review of the record herein and noting the stipulation of the parties, it is hereby ORDERED that this case be REVERSED and REMANDED to the Commissioner of Social Security for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

On remand the Administrative Law Judge (ALJ) will give further consideration to the treating and examining source opinions pursuant to the provisions of 20 C.F.R. § 404.1527 and Social Security Ruling (SSR) 96-2p *available at* 1996 WL 374188 and SSR 96-5p, *available at* 1996 WL 374183, and nonexamining source opinions pursuant to the provisions of 20 C.F.R. § 404.1527(f) and SSR 96-6p, *available at* 1996 WL 374180. The hearing decision

1 should articulate consideration of all medical source opinions in the case record,
2 and explain the weight given to such opinion evidence, consistent with 20 C.F.R.
3 § 404.1527. As appropriate, the ALJ may request the treating and examining
4 sources to provide additional evidence and/or further clarification of the opinions
5 and medical source statements about what Plaintiff can still do despite her
6 impairments. 20 C.F.R. § 404.1512.

7 The ALJ is directed to: further consider the severity of Plaintiff's exertional
8 and non-exertional impairments. In so doing, the hearing decision should reflect
9 consideration of Plaintiff's subjective complaints concerning the limitations
10 resulting from the Plaintiff's dermatitis and mental impairments. If necessary, the
11 ALJ is directed to develop the case record further concerning the duration and
12 frequency that Plaintiff can wear gloves to protect her hands before exacerbation of
13 her symptoms. The ALJ is directed to give further consideration to Plaintiff's
14 maximum residual functional capacity and provide appropriate rationale with
15 specific references to evidence of record in support of the assessed limitations.
16 20 C.F.R. § 404.1545 and SSR 96-8p, *available at* 1996 WL 374189.

17 The ALJ is directed to obtain supplemental evidence from a vocational
18 expert to clarify the effect of the assessed limitations on Plaintiff's occupational
19 base. SSR 83-12, *available at* 1983 WL 31253 and SSR 83-14 *available at* 1983
20 WL 31254. The hypothetical questions should clearly reflect the specific

1 capacity/limitations established by the record as a whole. The ALJ will ask the
2 vocational expert to offer an opinion of whether a hypothetical individual with
3 limitations consistent with Plaintiff's can perform the Plaintiff's past relevant work
4 of house worker/cleaner and/or commercial cleaner (janitor) as identified in the
5 *Dictionary of Occupational Titles(DOT)* (4th ed. 1991), despite such specific
6 capacity/limitations. If warranted by the expanded record, the ALJ will proceed to
7 the fifth step of the sequential evaluation and develop the record further concerning
8 whether Plaintiff can make an adjustment to other work. In so doing, the ALJ will
9 ask the vocational expert to identify examples of appropriate jobs and to state the
10 incidence of such jobs in the national economy. Before relying on the vocational
11 expert evidence the ALJ will identify and resolve any conflicts between the
12 occupational evidence provided by the vocational expert and information in the
13 *DOT* and its companion publication, the *Selected Characteristics of Occupations*
14 *Defined in the Revised Dictionary of Occupational Titles*, published by the
15 U.S. Department of Labor. SSR 00-4p, *available at* 2000 WL 1898704. The ALJ
16 is directed to take any further action necessary to render a new decision in this
17 matter.

18 Reasonable attorney fees will be awarded, upon proper application, pursuant
19 to the Equal Access to Justice Act, 28 U.S.C. § 2412.

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1 DATED this 24th day of January, 2006.

3 S/ CYNTHIA IMBROGNO

4 UNITED STATES MAGISTRATE JUDGE

5 Presented by:

6 s/ TERRY E. SHEA

7 Special Assistant United States Attorney

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